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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,994

02/18/2004

Andreas Giefer

71279

3309

23872

7590

05/17/2005

MCGLEW & TUTTLE, PC

P.O. BOX 9227

SCARBOROUGH STATION

SCARBOROUGH, NY 10510-9227

EXAMINER

WRIGHT, DIRK

ART UNIT

PAPER NUMBER

3681

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/780,994	<b>Applicant(s)</b> GIEFER ET AL.	
	<b>Examiner</b> Dirk Wright	<b>Art Unit</b> 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 and 13-16 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Claims Rejected***

The use of the trademark Tiptronic ® has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity as trademarks. See MPEP 608.01(v).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 12, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 and 18, "Tiptronic" is indefinite because it is not defined in the specification and because the owner of the trademark may change the structure to which it applies, and therefore the scope of the claims is unclear. In claims 1, 4, 12, and 19, "a housing and/or a frame" is indefinite because a housing does not have the same scope as a frame, they mean different things and are therefore not equivalents.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson '124. Anderson appears to show all of the features of the claimed invention including a stopper 60, a locking lever 96, a locking bar 88 and guide rails 84, wherein a Bowden cable 18 actuates

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the lever 96 to lock the shift lever 24 in the Park position, and the key cylinder 14 prevents the key from being removed in other positions.

The examiner takes Official Notice that any claimed subject matter that is not specifically addressed in the rejection of the claims is old and well known to those of ordinary skill in this art. See MPEP 2144.03

### *Claims Allowed*

Claims 9-11, and 13-16 are allowable over the prior art of record. The claims are allowable because the prior art does not anticipate nor render obvious the claimed combination of: A shifting device for transmitting shift commands to an automatic transmission of a motor vehicle, the shifting device comprising: a selector lever for transmitting shift commands to the transmission of the motor vehicle, said selector lever being movable in an automatic gate and a single gear shift gate; an axially displaceable locking bar that can be actuated manually, said selector lever being fixable in a parking position P by said locking bar; a locking device coupled with a vehicle ignition lock and preventing the unlocking of said selector lever from the parking position when the ignition key has been removed from the ignition lock and preventing the removal of the ignition key from the ignition lock when said selector lever is outside the parking position, said locking device including a stopper displaceable in a direction of said automatic gate and through which direction said selector lever passes, and a locking lever acting on said stopper, wherein a coupling is provided between said locking bar and said locking lever.

No particular single feature of the claim renders the claim as a whole patentable. Only the claim taken as a whole combination is deemed new and unobvious.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Subject Matter Allowable***

The subject matter of claims 1-8, 12, 18 is allowable, and these claims would be allowable if the rejection under 35 U.S.C. 112, second paragraph, was overcome.

Claim 20 is objected to because it depends from a rejected independent claim, but would be allowable if written in independent form including all of the limitations of the independent and any intervening claims.

***Prior Art Discussed***

The references cited by the examiner are deemed pertinent to applicant's disclosure. Yamada '065 shows an ignition key interlock for a transmission shift lever with a single shift gate in addition to the automatic gate in figure 19, but does not appear to show all of the features of the claimed invention. Likewise, Syamoto '696 shows another ignition key interlock for a transmission shift lever with a single shift gate in addition to the automatic shift gate in figure 2, but does not appear to show all of the features of the claimed invention.

***Conclusion***

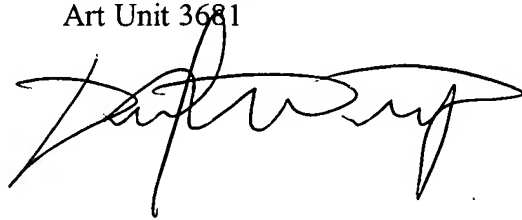
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dirk Wright whose telephone number is 571-272-7098. The examiner can normally be reached on Monday through Friday, 8AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dirk Wright  
Primary Examiner  
Art Unit 3681

A handwritten signature in black ink, appearing to read 'Dirk Wright', is written over the printed name and title.

DW  
Friday, May 13, 2005